

Remarks/Arguments

Please note the new address and phone number of the office of Applicant's attorney on the last page of this response and update your records accordingly. A change of address form was submitted a month ago. In addition, please change the attorney docket number to REED1004. A change of attorney docket number was filed more than 5 months ago when the file was transferred to Applicant's current attorney.

In response to the Notice of Non-Compliant Amendment of October 15, 2004, Applicant has included a complete listing of all of the claims herewith. The remaining portions of this response are exactly the same as the Response filed on July 26, 2004. Specifically, claims 1, 7 and 8 have been amended and new claims 12-14 have been added. It is believed that the present claims, as amended, more particularly and distinctly set forth the patentable subject matter of the present invention. Accordingly, claims 1-14 are presented for examination in the subject application.

Rejections Under 35 U.S.C. § 102(e)

The Examiner rejected claims 1 and 8 under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,658,267 (hereinafter "Baranowski").

Applicant respectfully disagrees. Baranowski teaches a device that includes both "a broadband AM/FM radio signal receiver and a wireless telephone transceiver" (Col. 2, lines 60-63). In other words, the Baranowski device is an "integrated commercial radio receiver and wireless telephone" (Col. 2, lines 28-29).

In contrast, the present invention discloses a system that can be used to receive radio and other audio broadcasts via any telephone or cellular phone without having a radio signal receiver on the phone. Thus, a phone in accordance with the subject invention is not affected by the reception limitations of an AM/FM radio.

More specifically, a device as taught in Baranowski would not be able to receive a broadcast from a New York radio station while the user is in California, for example, because the reception would be out of range (i.e., 87.5 to 107.9 MHz for FM and 530 to 1700 kHz for AM radio). A system in accordance with the present invention, however, would be capable of transmitting a New York radio broadcast to a phone in California or anywhere in the world. A user would only need to dial into the system and select the desired broadcast station, and the broadcast would be sent via the same frequency used by the phone. This is what is meant by “telephonically accessing” the system as recited in claims 1 and 8. It is not an equivalent of “accessing the system on the phone,” for example, as required by the device disclosed in Baranowski.

To eliminate the apparent confusion and to more particularly and distinctly set forth the patentable subject matter of the present invention, Applicant has amended claims 1 and 8 to recite “placing a call from the telephone” as an additional step and element, respectively. As such, it should be clear that one has to dial a telephone number to access a system in accordance to the present invention. Baranowski clearly teaches away from this requirement.

Therefore, Applicant respectfully submits that the rejections under 35 U.S.C. § 102(e) have been traversed.

Rejections Under 35 U.S.C. § 103(a)

In the Office Action, the Examiner rejected claims 2-7 and 9-11 under 35 U.S.C. §103(a). First, claims 2, 6 and 9 were rejected as allegedly being unpatentable over Baranowski in view of U.S. Patent No. 6,529,742 (hereinafter “Yang”). In addition, claims 3-4, 7, 10-11 were rejected as allegedly being unpatentable over Baranowski in view of Yang and further in view of U.S. Patent No. 5,812,937 (hereinafter “Takahisa”).

First and foremost, because Baranowski teaches away from the present invention as discussed above, it cannot be properly combined with Yang and/or Takahisa to create a system in accordance with the subject invention.

Furthermore, both Yang and Takahisa also teach away from the present invention. Similar to Baranowski, Yang teaches an integrated unit that is both a phone and a TV (See, e.g., FIG. 1, Abstract, and Col. 2, lines 25-27 (“The TV phone includes a TV unit that reproduces and outputs a video signal from a selected channel”)). Thus, Yang has the same flaw as Baranowski; namely, a reception limitation (e.g., range and interference).

The present invention eliminates this problem by simply using a relay system to re-broadcast the desired audio broadcast via a telephone at the phone’s own frequency range.

Turning now to the Takahisa reference, it teaches the use of a data tuner to receive data in addition to audio transmissions (Abstract and Col. 1, lines 15-17). The “identification option” stated on page 4 of the Office Action is not an identification of the station as alleged by the Examiner. Rather, it is a “personal code” used to identify the user in order to “provide personal messages” such as a dedicated song for the user (Col. 9, lines 27-52). As such, Takahisa discloses a non-analogous art which teaches away from the subject invention.

Because all of the references cited in the Office Action teach away from the present invention, and further because there is no motivation or suggestion for a person of ordinary skill in the art to use the non-analogous teachings of Takahisa at the time of the present invention, it is respectfully submitted that the Examiner’s rejections under § 103 have been obviated.

In view of the foregoing, it is submitted that all of the stated grounds of rejection have been properly overcome, and that the application is fully in condition for allowance. A notice to that effect is earnestly solicited.

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Amdt. Dated November 4, 2004
Reply to Notice of Non-Compliant Amendment dated October 15, 2004

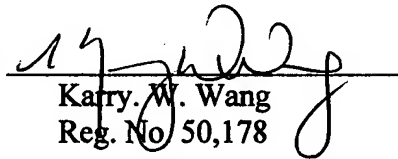
The Examiner is invited to telephone the undersigned representative if it is believed that an interview may be useful for any reason.

Respectfully submitted,

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By


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